

COPY

to FCSD

4/10/18

JD

IN THE FAYETTE COUNTY CIRCUIT COURT, WEST VIRGINIA

CYNTHIA D NOROSKY,
Plaintiff,Civil Action No. 18-C-74

v.

CORALICIOUS INCORPORATED
and
LEWIS RHINEHART
DefendantsSUMMONSTo the above named Defendant: LEWIS RHINEHART, 1316 Old Route 88,
Fayetteville, WV 25840.

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Mark A. Toor, Esq., counsel for Plaintiff, at 10 Hale Street, 2nd Floor, Charleston, West Virginia 25301, an Answer, including any related counterclaims or defense you may have, to the Complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your Answer within 20 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, thereafter judgment, upon proper hearing and trial, may be taken against you for the relief demanded in the Complaint and you will be thereafter barred from asserting in another action any claim, cross claim, or defense you may have, which must be asserted in the above-styled action.

Dated: April 10, 2018*Cathy L. Garrett*

Clerk of the Court

By: _____

FAYETTE COUNTY
CIRCUIT CLERK
2018 APR 10 8 21 AM

EXHIBIT

tabbles

to SS
4/10/18
jo

COPY

IN THE FAYETTE COUNTY CIRCUIT COURT, WEST VIRGINIA

CYNTHIA D NOROSKY,
Plaintiff,

Civil Action No. 18-C-74

v.

CORALICIOUS INCORPORATED
and
LEWIS RHINEHART
Defendants

SUMMONS

To the above named Defendant: CORALICIOUS, INCORPORATED, 1316 Old Road, 38, Fayetteville, WV 25840.

FAYETTE COUNTY
CIRCUIT CLERK
2018 APR 10 PM 4:10

IN THE NAME OF THE STATE OF WEST VIRGINIA, you are hereby summoned and required to serve upon Mark A. Toor, Esq., counsel for Plaintiff, at 10 Hale Street, 2nd Floor, Charleston, West Virginia 25301, an Answer, including any related counterclaims or defense you may have, to the Complaint filed against you in the above-styled civil action, a true copy of which is herewith delivered to you. You are required to serve your Answer within 30 days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, thereafter judgment, upon proper hearing and trial, may be taken against you for the relief demanded in the Complaint and you will be thereafter barred from asserting in another action any claim, cross claim, or defense you may have, which must be asserted in the above-styled action.

Dated: 4/10/18

Cathy L. Garrett

Clerk of the Court

By: _____

IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIACIVIL CASE INFORMATION STATEMENT
(Civil Cases Other than Domestic Relations)

I. CASE STYLE:

Case No. 18-C-

Plaintiff(s)

Judge: _____

CYNTHIA DARLENE NOROSKY1323 Quarrier Street, Apt. DCharleston, WV 25301

vs.

Days to
Answer

Type of Service

Defendant(s)

CORALICIOUS, INCORPORATED and LEWIS30Secretary of State/Personal

Name

RHINEHART, 1316 Old Route 38 Fayetteville.

Street Address

West Virginia 25840

City, State, Zip Code


II. TYPE OF CASE:

☒ General Civil☐ Mass Litigation [As defined in T.C.R. 26.04(a)]☐ Asbestos☐ FELA Asbestos☐ Other: _____☐ Habeas Corpus/Other Extraordinary Writ☐ Other: _____☐ Adoption☐ Administrative Agency Appeal☐ Civil Appeal from Magistrate Court☐ Miscellaneous Civil Petition☐ Mental Hygiene☐ Guardianship☐ Medical MalpracticeIII. JURY DEMAND: ☒ Yes ☐ No CASE WILL BE READY FOR TRIAL BY (Month/Year): 01 / 2019IV. DO YOU OR ANY
OF YOUR CLIENTS
OR WITNESSES
IN THIS CASE
REQUIRE SPECIAL
ACCOMMODATIONS?☐ Yes ☒ No

IF YES, PLEASE SPECIFY:

☐ Wheelchair accessible hearing room and other facilities☐ Reader or other auxiliary aid for the visually impaired☐ Interpreter or other auxiliary aid for the deaf and hard of hearing☐ Spokesperson or other auxiliary aid for the speech impaired☐ Foreign language interpreter-specify language: _____☐ Other: _____Attorney Name: Mark A. Toor (WVSB #5228)Firm: Mark A. Toor, Esq.Address: 10 Hale Street, Second Floor, Charleston, WV 25301Telephone: (304) 380-2111

Representing:

☒ Plaintiff☐ Defendant☐ Cross-Defendant☐ Cross-Complainant☐ 3rd-Party Plaintiff☐ 3rd-Party Defendant☐ Proceeding Without an AttorneyOriginal and 2 copies of complaint enclosed/attached.Dated: 04 / 09 / 2018Signature: 

Plaintiff: CYNTHIA DARLENE NOROSKY, et alCase Number: 18-C-

vs.

Defendant: CORALICIOUS, INCORPORATED and LEWIS, et al

**CIVIL CASE INFORMATION STATEMENT
DEFENDANT(S) CONTINUATION PAGE**

Coralicious, Inc.

Defendant's Name

1316 Old Route 38 Fayetteville, WV 25840

Street Address

Days to Answer: 30Type of Service: Sect of StateCity, State, Zip CodeLewis Rhinehart

Defendant's Name

1316 Old Route 38 Fayetteville, WV 25840

Street Address

Days to Answer: 20Type of Service: PersonalCity, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

Defendant's Name

Days to Answer: _____

Street Address

Type of Service: _____

City, State, Zip Code

IN THE FAYETTE COUNTY CIRCUIT COURT, WEST VIRGINIA

CYNTHIA D NOROSKY,
Plaintiff,

v.

Civil Action No. 18C-74CB

CORALICIOUS INCORPORATED
and
LEWIS RHINEHART
Defendants

COMPLAINT

Plaintiff, Cynthia D Norosky, ("Plaintiff") brings this action to recover damages for unpaid wages/overtime under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. §201, *et seq.*) (hereafter referred to as "the Act" or "FLSA").

1. Subject matter jurisdiction over this action is conferred on this court by Section 16 of the Act (29 U.S.C. §216).
2. Plaintiff is a resident of Kanawha County and was an "Employee" of Defendant as that term is defined in the Act (29 U.S.C. §203(e)) at all times relative to this Complaint.
3. Defendant Coralicious, Incorporated ("Coralicious") is a corporation organized under the laws of West Virginia, is conducting business in Fayette County, and is an "Employer" as that term is defined in the Act (29 U.S.C. §203(d)).
4. Defendant Lewis Rhinehart ("Rhinehart") is the majority owner/officer of Coralicious, is responsible for the day-to-day operations of the business and is an "Employer" as that term is defined in the Act (29 U.S.C. §203(d)).

2018 APR 10 P 2:11
FAYETTE COUNTY
CIRCUIT CLERK

5. Upon information and belief, Coralicious is subject to "Enterprise Coverage" under the Act because it engages in activities for a business purpose and has annual sales or business done at the level of at least \$500,000.

6. Plaintiff was also subject to "Individual Coverage" under the Act because the regular and recurring duties of her former position caused her to be engaged in Commerce as that term is defined in the Act. 29 U.S.C. §203(b).

Unpaid Wages as an Exempt Employee

7. Plaintiff was paid a salary and was treated by Defendants as exempt from the minimum wage/maximum hour provisions of the Act. 29 U.S.C. §213(a)(1).

8. Defendants at all times, however, failed to pay Plaintiff a salary sufficient to meet the salary basis test for that exemption. Specifically, Defendants paid Plaintiff a salary during part of 2015 and throughout 2016 of two hundred fifty dollars (\$250.00) per week.

9. To the extent Plaintiff may have been properly classified by Defendants as a salaried employee and exempt from the minimum wage/maximum hour provisions of the Act, Defendants violated the law and incurred liability to Plaintiff for failing to pay her the minimum salary required by the salary basis test under 29 U.S.C. §213(a)(1).

Failure to Maintain Records and to Pay Overtime as a Non-Exempt Employee

10. Throughout her employment tenure with Defendants, Plaintiff's work-related duties and responsibilities did not meet any of the definitions necessary to exempt her from coverage under the minimum wage/maximum hour provisions of the Act. 29 U.S.C. §213(a).

11. Throughout her employment tenure with Defendants, Defendants wholly failed in their obligation to document and to retain records of hours they suffered or permitted Plaintiff to work. 29 U.S.C. §211(c).

12. Despite Defendants' failure to maintain legally required records of hours worked, Plaintiff is capable of producing credible evidence supporting her estimates of hours worked, to which Defendants are incapable of producing any rebuttable.

13. Throughout her employment tenure with Defendants, Plaintiff regularly worked in excess of forty (40) hours in individual work weeks.

14. Defendants wholly failed to compensate Plaintiff for all such hours over forty (40) Plaintiff worked in any one workweek at premium rates as required by the Act.

WHEREFORE, having stated her complaint against Defendants, Plaintiff seeks relief and judgment from Defendants as follows:

- a. An order entered pursuant to 29 U.S.C. §216(b) finding Defendants liable to Plaintiff for all damages she has suffered by way of unpaid wages for their failure to pay her the required minimum salary under the salary basis test as an employee exempt from the minimum wage/maximum hour provisions of the Act, or, in the alternative;
- b. An order entered pursuant to 29 U.S.C. §216(b) finding Defendants liable to Plaintiff for all damages she has suffered by way of unpaid wages for their failure to pay her premium rates for all hours over forty (40) worked in any one workweek as an employee not subject to any of the exemptions under the Act, and, in either instance;

- c. Liquidated damages in an amount equal to the amount of unpaid salary or wages together with interest, attorney fees, and all other amounts collectible under the Act, and;
- d. Such other relief as the court may deem proper.

Plaintiff demands a jury trial.

CYNTHIA DARLENE NOROSKY
By Counsel

/s/ Mark A. Toor
Mark A. Toor (WVSB #5228)
10 Hale Street, 2nd Floor
Charleston, WV 25301
304-380-2111
mark@marktoor.com

04/10/18 10:10:00
FUNCTION = SEQ INQUIRY

NO. 0000
CASE SCREEN 4

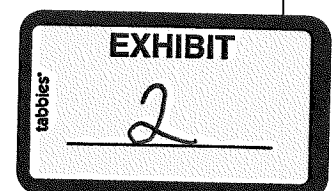
Case number : 18-C-74

Action Log

CYNTHIA DARLENE NOROSKY vs. CORALICIOUS, INC., ET AL

Line	Date	Action / Results
1	04/10/18	COMPLAINT FILED, S/C TO FCSD AND SS
2	04/16/18	RETURN OF P/S ON LEWIS RHINEHART--NOT FOUND--04/14
3	04/17/18	RETURN FROM SECRETARY OF STATE ON CORALICIOUS INC-04/12

C=Chg D=Del 1-4=Scr M=Menu T=Chg Line# PgUp PgDn P=Prt A=Add I=Image



IN THE CIRCUIT COURT OF FAYETTE COUNTY, WEST VIRGINIA

CYNTHIA D. NOROSKY,

Plaintiff,

v.

CIVIL ACTION NO.: 18-C-74 (B)

CORALICIOUS INCORPORATED
and LEWIS RHINEHART,

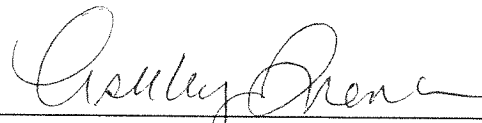
Defendants.

TO: Plaintiff and the Clerk of the Circuit Court of Fayette County, West Virginia.

**NOTICE TO PLAINTIFF AND CIRCUIT COURT
OF FILING OF NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. § 1446(d), the Defendants, Coralicious Incorporated and Lewis Rhinehart (collectively "Defendants") hereby give notice to the Plaintiff, through her counsel, and to the Clerk of the Circuit Court of Fayette County, West Virginia, that, on this date, the Defendants in the above styled civil action, have filed a Notice of Removal in the United States District Court for the Southern District of West Virginia, in Charleston, to remove the above-captioned civil action to federal court. A copy of said Notice of Removal is attached as "Exhibit 1."

Respectfully submitted,



Ashley W. French (WVSB #9060)
CIPRIANI & WERNER, PC
500 Lee Street East, Suite 900
Charleston, West Virginia 25301
Phone: 304-341-0500
Fax: 304-341-0507
Counsel for Defendants

